

Maine Revised Statutes
Title 5: ADMINISTRATIVE PROCEDURES AND SERVICES
Chapter 153: PUBLIC IMPROVEMENTS

§1742. POWERS AND DUTIES

The Department of Administrative and Financial Services, through the Bureau of General Services, has authority: [1991, c. 780, Pt. Y, §53 (AMD).]

1. Programs. To require the development of overall long range public improvement programs for all departments and agencies of the State Government and to coordinate and present recommendations pertaining thereto to the Governor, the Governor-elect, the State Budget Officer and the Legislature;

2. Inspection. To regularly inspect state-owned and leased buildings in the State and report to the controlling department head whatever construction, repairs, alterations and improvements are determined necessary. If the Commissioner of Administrative and Financial Services considers it advisable, the commissioner shall make a similar report to the Governor;

[1991, c. 780, Pt. Y, §54 (AMD) .]

3. Advise. Upon request to advise all state departments, agencies and school administrative units in connection with engineering and architectural questions and matters pertaining to any and all public improvements;

[1971, c. 542, §2 (AMD) .]

4. Review. To review the operation and maintenance of state-owned and leased buildings and property and to make recommendations with respect thereto to the Commissioner of Administrative and Financial Services and controlling department or agency head concerned;

[1991, c. 780, Pt. Y, §55 (AMD) .]

5. Data. To prepare, at the request of the Governor or the Legislature, data pertaining to existing or proposed public improvements;

[1975, c. 771, §79 (AMD) .]

6. Approve selection of architects and engineers and other professionals. To approve the selection of architects and engineers registered in Maine and other professionals in the planning, design and monitoring of construction of public improvements consistent with the policy of this State that proposals for professional, architectural and engineering services for public improvements be publicly announced, and that contracts for those services be negotiated by the contracting authority on the basis of evaluation of professional competency and qualifications required for the type of services contemplated at fair and reasonable prices.

The bureau shall adopt procedures for the procurement of any professional, architectural and engineering services for public improvements as defined in section 1741. The procedures must be adopted pursuant to Title 5, chapter 375 and be deemed a rule.

The procedure must contain a provision that, prior to initiating the process of selecting an architect or engineer or other professional for any project, the contracting authority shall advertise in a daily newspaper that serves the area in which the project is likely to be located. The advertisement must state, at a minimum, that the selection is to take place and describe the procedures that an engineer or architect or other professional may use to be considered as a candidate in the selection process.

Notwithstanding this subsection, the bureau may select a person or persons to perform professional, architectural or engineering services from the list described in this subsection without advertising or competitive selection if the cost of the services does not exceed \$25,000. The bureau shall solicit names for placement on a list by placing a general advertisement for professional, architectural or engineering services in newspapers that taken together have general circulation throughout the State. The bureau may substitute advertisement in professional journals or other publications that it finds equally effective in reaching the intended audience. The bureau may require persons responding to the advertisement to complete a qualifying questionnaire designed to address experience and expertise in performing the type of work advertised. The bureau shall prepare a list of respondents that it determines qualified and update the list at least every 2 years.

If the bureau determines that a person is not qualified for placement on the list of providers of professional, architectural or engineering services, the person may appeal that decision in writing to the Commissioner of Administrative and Financial Services within 15 days of the bureau's decision. The commissioner shall complete the appeal process and issue a decision within 15 days of the filing of the appeal. The decision of the commissioner is final;

[2013, c. 1, §10 (COR) .]

6-A. Building code. To adopt for design purposes for all public improvements the most recent version of one of the following published compilations of rules that has been prepared by the International Code Council, the American Insurance Association, the Building Officials and Code Administrators International, the International Conference of Building Officials, the National Fire Protection Association or the Southern Building Code Congress, except that, where an administrative unit has adopted one of the above codes, that code must be used for the design of a school building in that administrative unit.

The bureau has discretion to determine which portions of the building codes used in this subsection are applicable to public improvement projects. This determination must be adopted by rule and applies to all public improvement projects covered by those codes. Rules adopted pursuant to this subsection are routine technical rules as defined in chapter 375, subchapter II-A;

[2001, c. 607, §1 (AMD) .]

7. Approve plans for public improvements. To approve all proposals, plans, specifications and contracts for public improvements that the State or any of its agencies hold in fee or by leasehold interest and for school administrative unit projects costing in excess of \$100,000. The commissioner shall, upon the request of a school administrative unit, provide consultation for any public improvement regardless of cost. The Bureau of General Services shall furnish a quarterly report to the project unit school board that details the services provided to the project during the time period covered by the report. The Bureau of General Services shall submit to the State Board of Education an annual report that summarizes the services provided each project;

[2005, c. 386, Pt. L, §1 (AMD) .]

8. Inspection. To inspect materials, equipment, methods used and changes in plans in making public improvements, and inspect public improvements during the course of construction or repair, and make such recommendations as may be indicated to the architect or engineer, when employed, to the controlling department or agency head, or school administrative unit. The architect or engineer when employed shall provide adequate inspection of materials, equipment, methods and changes in plans on all projects under his supervision;

[1971, c. 542, §4 (AMD) .]

9. Recommendations. To require prompt inspection upon the completion of any public improvement and to make recommendations promptly for the acceptance or rejection thereof to the authority which approved the execution of the project;

10. Inventory.

[1997, c. 90, §2 (RP) .]

11. Listing of real estate. To require the listing of real estate belonging to or under lease to the State Government, showing controlling agency, location, metes and bounds, cost or rental rate and when acquired or rented;

12. Demolish obsolete buildings. To demolish or otherwise dispose of buildings and appurtenances, excluding land, belonging to the State that have become hazards, obsolete or are unjustifiably expensive to maintain. Such demolition or other disposal shall be on the recommendation of the department or agency head having jurisdiction over the buildings and appurtenances concerned and under such terms and conditions as deemed by the Governor to be in the best interests of the State;

[1975, c. 771, §80 (AMD) .]

13. File of plans. To collect and maintain a complete and accurate file of drawings showing plans of location and situation of all public improvements;

14. Records. To collect and maintain records of construction costs and progress of all public improvements;

15. Supervision of State House and grounds. To have general supervision of the State House and the grounds specified in Title 3, section 902-A, subsection 2, and to make repairs and alterations in and about such grounds and buildings at the direction of the Legislative Council or the Executive Director of the Legislative Council, as provided in Title 3, section 902, subsection 3;

[1989, c. 410, §18 (AMD) .]

16. Maintain public park in Augusta. To maintain all that portion of the state lands specified in Title 3, section 902, subsection 2, in accordance with the official plans proposed by the State House and Capitol Park Commission to the Legislative Council and adopted by the Legislature pursuant to Title 3, section 902, subsection 1;

[1989, c. 410, §18 (AMD) .]

17. Food service. To provide, with the consent of the Governor, food service in the state office buildings located at the seat of government and elsewhere in the State as may be determined by the Governor;

[1975, c. 771, §81 (AMD) .]

18. Assign rooms. To assign rooms in all buildings used by the State for offices and determine the occupancy thereof in such manner as the public service may require;

19. Facilities required by State.

[1991, c. 9, Pt. L, §1 (RP) .]

19-A. Real property leases required by State. Except as provided in section 1742-D, to locate, negotiate and manage all real property leases required by departments and agencies of State Government;

[1991, c. 9, Pt. L, §2 (NEW) .]

19-B. Real property interests acquired by State.

[2007, c. 488, §1 (NEW); T. 5, §1742, sub-§19-B (RP) .]

20. Utility services.

[1985, c. 785, Pt. A, §66 (RP); 1987, c. 402, Pt. A, §§41, 42 (AMD) .]

20-A. Utility services. To purchase or contract or approve the purchasing or contracting for electric, water, sewerage and gas services for any department and agency of State Government and to grant necessary easements for utilities;

A. [1987, c. 282, §1 (RP).]

B. [1987, c. 282, §1 (RP).]

C. [1987, c. 282, §1 (RP).]

[1991, c. 780, Pt. Y, §56 (AMD) .]

21. Rules. To make rules, subject to the approval of the Commissioner of Administrative and Financial Services for the purposes of carrying out this subchapter;

[1991, c. 780, Pt. Y, §57 (AMD) .]

22. Drug-related seized property.

[1989, c. 483, Pt. A, §15 (RP) .]

23. Inventory of land. To periodically inventory all land owned by any state agency and, together with other state agencies, determine land that is needed by state agencies for other uses and land that is surplus. Prior to offering any land for sale, the commissioner shall review with the Maine State Housing Authority and other state agencies the information derived from the inventory.

A. By February 1, 1988, the commissioner shall provide an initial report on the status of the land inventory to the joint standing committees of the Legislature having jurisdiction over economic development; state and local government; and appropriations and financial affairs. [1987, c. 407, §3 (NEW) .]

B. Notwithstanding any other provision of law, the procedure for the distribution of surplus state property for the purpose of this subsection shall take priority over any other procedure for the disbursement of surplus state land. [1987, c. 407, §2 (NEW) .]

C. Nothing in this subsection shall be construed to pertain to public reserved lands which are exempt from this subsection. [1989, c. 502, Pt. A, §15 (AMD) .]

D. The department shall work closely with the Maine State Housing Authority to develop a procedure by which surplus state-owned land and structures are held in trust for the purpose set forth in this section and Title 30-A, chapter 201, subchapters III-A and XI; [1989, c. 502, Pt. A, §16 (AMD) .]

[1989, c. 502, Pt. A, §§15, 16 (AMD) .]

24. Application of minimum air ventilation standards. Beginning September 1, 1988, to apply ASHRAE Standard 62-1989 entitled, Ventilation for Acceptable Indoor Air Quality, as prepared by the American Society of Heating, Refrigeration and Air Conditioning Engineers, Inc. or more stringent standards to buildings occupied by state employees during normal working hours. These standards must be applied to buildings that are constructed or substantially renovated by the State after September 1, 1988 and to buildings for which the State enters into new leases or renews leases following the date in this subsection. For the purpose of this subsection, "substantial renovation" means any renovation for which the cost exceeds 50% of the buildings' value.

A. The bureau, in cooperation with a labor-management committee established to look at this issue, shall develop a plan by which priorities are established for improving indoor air quality and ventilation standards in buildings occupied by state employees. This plan must include data gathering and analysis of air quality in a sample number of buildings by which reasonable projections and estimates concerning air quality can be established. The bureau shall report its findings to the joint standing committee of the Legislature having jurisdiction over state and local government no later than January 16, 1989. This report, at a minimum, must contain the following:

- (1) A description of the extent of the problem, if any, with respect to air quality and ventilation in buildings occupied by state employees;
- (2) Priorities of locations for which the improvement of air quality is necessary. These locations must be areas occupied by state employees during normal working hours;
- (3) A timetable by which these priorities could be addressed;
- (4) A description of what may be necessary to address these priorities, including feasible alternatives;
- (5) The costs of addressing these priorities; and
- (6) If possible, locations leased by the State that may not meet the air quality standards defined in this subsection.

Nothing in this paragraph may be construed to require the bureau to conduct an in depth analysis for each building or to present technical data for each building occupied by state employees. [2005 , c . 634 , §4 (AMD) .]

B. The indoor air quality and ventilation standards applied by the bureau remain in effect until the Board of Occupational Safety and Health adopts air quality and ventilation standards; [2005 , c . 634 , §4 (AMD) .]

[2005 , c . 634 , §4 (AMD) .]

25. Sites for child care programs. To review, in cooperation with the Office of Child Care Coordination in the Department of Health and Human Services, feasible sites for child care programs offered primarily as a service to state employees pursuant to Title 22, section 8307, subsection 2;

[2013 , c . 1 , §11 (COR) .]

26. Rental income. To credit income from the rental of facilities in Limestone to the Department of Administrative and Financial Services, Bureau of General Services, Other Special Revenue Funds account. These funds must be used for repairs, capital improvements and other costs of managing the facilities operated by the Maine Military Authority in Limestone.

Notwithstanding any other provision of law and except when the Governor in the case of an emergency pursuant to Title 37-B, section 742 or 744 needs money for disaster relief the Governor may transfer no more than 10% of the balance of the rental income, the department also may recommend that:

- A. Part of the rental income collected by the Department of Administrative and Financial Services, Bureau of General Services pursuant to this subsection be transferred to the General Fund as undedicated revenue; [2005 , c . 519 , Pt . W , §1 (NEW) .]
- B. Part of the rental income collected by the Department of Administrative and Financial Services, Bureau of General Services pursuant to this subsection be transferred to the Department of Defense, Veterans and Emergency Management, Maine National Guard Education Assistance Pilot Program, Other Special Revenue Funds account for tuition assistance; [2005 , c . 634 , §6 (AMD) .]
- C. Part of the rental income collected by the Department of Administrative and Financial Services, Bureau of General Services pursuant to this subsection be transferred to the Department of Defense, Veterans and Emergency Management, Maine National Guard Education Assistance Pilot Program,

Other Special Revenue Funds account for the reimbursement of the purchase of supplemental life insurance as provided for in the provisions of Title 37-B, section 390-B; [2009, c. 1, Pt. CC, §2 (AMD).]

D. Beginning July 1, 2007, part of the rental income collected by the Department of Administrative and Financial Services, Bureau of General Services pursuant to this subsection be transferred to the Department of Defense, Veterans and Emergency Management for maintenance and repair of National Guard armories in the State; and [2005, c. 634, §6 (NEW).]

E. Part of the rental income collected by the Department of Administrative and Financial Services, Bureau of General Services pursuant to this subsection be transferred to the Department of Defense, Veterans and Emergency Management, Disaster Assistance Relief, Other Special Revenue Funds account for disaster assistance; and [2011, c. 2, §2 (COR).]

[2011, c. 2, §2 (COR).]

27. Disaster assistance.

[2009, c. 1, Pt. CC, §4 (RP).]

28. State landfills. To own, design, develop or operate, or contract with private parties to operate, solid waste disposal facilities, as provided in Title 38, chapter 24, subchapter 4.

[2011, c. 655, Pt. GG, §1 (NEW); 2011, c. 655, Pt. GG, §70 (AFF).]

The head of any agency, board, commission, department of the State Government or school administrative unit, not otherwise exempted by law, who contemplates any public improvement, must first obtain the approval of the Director of the Bureau of General Services for such work. This paragraph is not intended to restrict the head of any agency, board, commission or department of the State Government from making emergency repairs to any state-owned building, public work or property or any property under lease to the State Government or to restrict any school administrative unit under like conditions that is under that person's supervision and control whenever it appears that such repairs are immediately necessary to prevent injury to persons or further damage to such buildings or property. [1991, c. 780, Pt. Y, §58 (AMD).]

SECTION HISTORY

1967, c. 307, (AMD). 1967, c. 409, §1 (AMD). 1971, c. 542, §§2-5 (AMD). 1973, c. 154, §2 (AMD). 1973, c. 741, (AMD). 1975, c. 771, §§78-81 (AMD). 1979, c. 223, (AMD). 1983, c. 824, §Y (AMD). 1985, c. 340, (AMD). 1985, c. 457, §4 (AMD). 1985, c. 481, §§A11,12 (AMD). 1985, c. 501, §§B15,16 (AMD). 1985, c. 737, §A16 (AMD). 1985, c. 785, §§A63-68 (AMD). 1985, c. 785, §B31 (AMD). 1987, c. 282, §1 (AMD). 1987, c. 402, §§A41,A42 (AMD). 1987, c. 407, §§1-3 (AMD). 1987, c. 733, §§1-3 (AMD). 1987, c. 741, §§1-3 (AMD). 1987, c. 820, §1 (AMD). 1989, c. 410, §18 (AMD). 1989, c. 483, §§A14,A15 (AMD). 1989, c. 502, §§A15-18 (AMD). 1989, c. 596, §N2 (AMD). 1991, c. 9, §§L1,2 (AMD). 1991, c. 780, §§Y53-58 (AMD). 1995, c. 665, §G1 (AMD). 1997, c. 90, §2 (AMD). 1997, c. 499, §1 (AMD). 2001, c. 506, §1 (AMD). 2001, c. 606, §1 (AMD). 2001, c. 607, §1 (AMD). 2003, c. 689, §B6 (REV). 2005, c. 386, §L1 (AMD). 2005, c. 519, §W1 (AMD). 2005, c. 634, §§4-7 (AMD). 2007, c. 488, §1 (AMD). 2009, c. 1, Pt. CC, §§1-4 (AMD). RR 2011, c. 2, §2 (COR). 2011, c. 655, Pt. GG, §1 (AMD). 2011, c. 655, Pt. GG, §70 (AFF). RR 2013, c. 1, §§10, 11 (COR).

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